

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 799

Introduced by Committee on Business, Professions and Economic Development (Senators Hill (Chair), Bates, Berryhill, Block, Galgiani, Hernandez, Jackson, Mendoza, and Wieckowski)

March 18, 2015

An act to amend Sections 5070.1, 5087, 6735, 7083, 7200, 7200.5, 7200.7, 7201, 7202, 7208, 7209, 7209.5, 7210.5, 7211.1, 7211.2, 7215, 7215.5, 7217, 7685, 8508, 8513, 8552, 8611, and 17913 of, and to repeal Section 8516.5 of, the Business and Professions Code, and to amend Section 13995.40 of the Government Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as amended, Committee on Business, Professions and Economic Development. Business and professions.

(1) Existing law provides that an accountant whose license was canceled by operation of law, after nonrenewal, as specified, may, upon application to the board and meeting specified requirements, have his or her license placed into a retired status.

This bill would prohibit the California Board of Accountancy from restoring that license in retired status to active or inactive status and instead would require the individual to apply for a new license in order to restore his or her license.

(2) Existing law authorizes the California Board of Accountancy to issue a certified public account (CPA) license to an applicant who holds a valid and unrevoked CPA license in another state, under specified conditions.

This bill would require that an out-of-state applicant hold a current, active, and unrestricted CPA license in order to be issued a CPA license under this provision.

(3) The Professional Engineers Act provides for the regulation and licensure of professional engineers by the Board for Professional Engineers, Land Surveyors, and Geologists. A violation of the licensing provisions of the act is a misdemeanor. Existing law requires all civil engineering plans, calculations, specifications, and reports to be prepared by, or under the responsible charge of, a licensed civil engineer, as specified. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all public school structures to be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. Existing law requires all civil engineering plans, calculations, specifications, and reports for the construction of all hospitals and other medical facilities having surgery and emergency treatment areas to be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

This bill would repeal the requirements that all civil engineering plans and other specified documents for construction of public school structures be prepared by, or under the responsible charge of, a licensed architect or a licensed civil engineer who is also licensed as a structural engineer. The bill would also repeal the requirements that all civil engineering plans and other specified documents for construction of specified hospital and medical facilities be prepared by, or under the responsible charge of, a licensed civil engineer who is also licensed as a structural engineer.

(4) *Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which consists of 7 members appointed by the Governor. Existing law authorizes the board to issue licenses for guide dog training and instructional services. A violation of these licensing provisions is a misdemeanor.*

This bill would also include dogs trained and provided for visually impaired persons within these licensing requirements. The bill would change reporting requirements from a calendar year to a fiscal year period and would make technical changes.

(5) *Under the Funeral Directors and Embalmers Law, the Cemetery and Funeral Bureau regulates licensed funeral establishments and requires that they be operated by a licensed funeral director who is required to provide written information regarding funeral goods and*

services and prices to consumers. Existing law requires a funeral establishment that maintains an Internet Web site to also post that information on its Internet Web site provided by a link from the homepage. A violation of these provisions is a misdemeanor.

This bill would require that the funeral establishment's Internet Web site contain specified key words.

~~(4)~~

(6) The California Constitution provides that laborers of every class who have worked upon or have furnished material for a property have a lien upon that property for the value of the labor done and material furnished. The California Constitution requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens. Existing law requires specified structural pest control operators to provide notice regarding possible liens, as specified, to the owner of property prior to entering into a contract to provide work on that property. A violation of these provisions is a misdemeanor.

This bill would extend the notice requirements to all structural pest control operators.

~~(5)~~

(7) Existing law requires a structural pest control operator to provide a report detailing the results of an inspection for wood destroying pests or organisms prior to commencing work on a contract or expressing an opinion regarding the presence or absence of wood destroying pests or organisms, to the Structural Pest Control Board, within the Department of Consumer Affairs, as specified. Existing law requires that the pest control operator deliver a copy of the report to the person requesting inspection, or designated agent, within 10 business days of the inspection. Existing law requires a pest control operator to deliver a copy of that report to the owner or the owner's agent within 10 working days of an inspection.

This bill would remove the requirement that the pest control operator provide the owner of the property or the owner's agent with a copy of the report, unless the owner was the person who requested the inspection.

~~(6)~~

(8) Existing law creates the California Travel and Tourism Commission and provides for the membership and meetings of the commission.

This bill would specify that all meetings of the commission take place in California and would authorize commissioners to attend meetings of

the commission by conference telephone or other technology, as specified.

(7)

(9) Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5070.1 of the Business and Professions
2 Code is amended to read:

3 5070.1. (a) The board may establish, by regulation, a system
4 for the placement of a license into a retired status, upon application,
5 for certified public accountants and public accountants who are
6 not actively engaged in the practice of public accountancy or any
7 activity that requires them to be licensed by the board.

8 (b) No licensee with a license in a retired status shall engage in
9 any activity for which a permit is required.

10 (c) The board shall deny an applicant's application to place a
11 license in a retired status if the permit is subject to an outstanding
12 order of the board, is suspended, revoked, or otherwise punitively
13 restricted by the board, or is subject to disciplinary action under
14 this chapter.

15 (d) (1) The holder of a license that was canceled pursuant to
16 Section 5070.7 may apply for the placement of that license in a
17 retired status pursuant to subdivision (a).

18 (2) Upon approval of an application made pursuant to paragraph
19 (1), the board shall reissue that license in a retired status.

20 (3) The holder of a canceled license that was placed in retired
21 status between January 1, 1994, and January 1, 1999, inclusive,
22 shall not be required to meet the qualifications established pursuant
23 to subdivision (e), but shall be subject to all other requirements of
24 this section.

1 (e) The board shall establish minimum qualifications to place
2 a license in retired status.

3 (f) The board may exempt the holder of a license in a retired
4 status from the renewal requirements described in Section 5070.5.

5 (g) The board shall establish minimum qualifications for the
6 restoration of a license in a retired status to an active status. These
7 minimum qualifications shall include, but are not limited to,
8 continuing education and payment of a fee as provided in
9 subdivision (h) of Section 5134.

10 (h) The board shall not restore to active or inactive status a
11 license that was canceled by operation of law, pursuant to
12 subdivision (a) of Section 5070.7, and then placed into retired
13 status pursuant to subdivision (d). The individual shall instead
14 apply for a new license, as described in subdivision (c) of Section
15 5070.7, in order to restore his or her license.

16 SEC. 2. Section 5087 of the Business and Professions Code is
17 amended to read:

18 5087. (a) The board may issue a certified public accountant
19 license to any applicant who is a holder of a current, active, and
20 unrestricted certified public accountant license issued under the
21 laws of any state, if the board determines that the standards under
22 which the applicant received the license are substantially equivalent
23 to the standards of education, examination, and experience
24 established under this chapter and the applicant has not committed
25 acts or crimes constituting grounds for denial under Section 480.
26 To be authorized to sign reports on attest engagements, the
27 applicant shall meet the requirements of Section 5095.

28 (b) The board may in particular cases waive any of the
29 requirements regarding the circumstances in which the various
30 parts of the examination were to be passed for an applicant from
31 another state.

32 SEC. 3. Section 6735 of the Business and Professions Code is
33 amended to read:

34 6735. (a) All civil (including structural and geotechnical)
35 engineering plans, calculations, specifications, and reports
36 (hereinafter referred to as “documents”) shall be prepared by, or
37 under the responsible charge of, a licensed civil engineer and shall
38 include his or her name and license number. Interim documents
39 shall include a notation as to the intended purpose of the document,
40 such as “preliminary,” “not for construction,” “for plan check

1 only,” or “for review only.” All civil engineering plans and
2 specifications that are permitted or that are to be released for
3 construction shall bear the signature and seal or stamp of the
4 licensee and the date of signing and sealing or stamping. All final
5 civil engineering calculations and reports shall bear the signature
6 and seal or stamp of the licensee, and the date of signing and
7 sealing or stamping. If civil engineering plans are required to be
8 signed and sealed or stamped and have multiple sheets, the
9 signature, seal or stamp, and date of signing and sealing or
10 stamping shall appear on each sheet of the plans. If civil
11 engineering specifications, calculations, and reports are required
12 to be signed and sealed or stamped and have multiple pages, the
13 signature, seal or stamp, and date of signing and sealing or
14 stamping shall appear at a minimum on the title sheet, cover sheet,
15 or signature sheet.

16 (b) Notwithstanding subdivision (a), a licensed civil engineer
17 who signs civil engineering documents shall not be responsible
18 for damage caused by subsequent changes to or uses of those
19 documents, if the subsequent changes or uses, including changes
20 or uses made by state or local governmental agencies, are not
21 authorized or approved by the licensed civil engineer who
22 originally signed the documents, provided that the engineering
23 service rendered by the civil engineer who signed the documents
24 was not also a proximate cause of the damage.

25 SEC. 4. Section 7083 of the Business and Professions Code is
26 amended to read:

27 7083. (a) Notwithstanding any other law, licensees shall notify
28 the registrar, on a form prescribed by the registrar, in writing within
29 90 days of any change to information recorded under this chapter.
30 This notification requirement shall include, but not be limited to,
31 changes in business address, personnel, business name, qualifying
32 individual bond exemption pursuant to Section 7071.9, or
33 exemption to qualify multiple licenses pursuant to Section 7068.1.

34 (b) Failure of the licensee to notify the registrar of any change
35 to information within 90 days shall cause the change to be effective
36 the date the written notification is received at the board’s
37 headquarters office.

38 (c) Failure to notify the registrar of the changes within the 90
39 days is grounds for disciplinary action.

1 *SEC. 5. Section 7200 of the Business and Professions Code is*
2 *amended to read:*

3 7200. (a) There is in the Department of Consumer Affairs a
4 State Board of Guide Dogs for the Blind in whom enforcement of
5 this chapter is vested. The board shall consist of seven members
6 appointed by the Governor. One member shall be the Director of
7 Rehabilitation or his or her designated representative. The
8 remaining members shall be persons who have shown a particular
9 interest in dealing with the problems of ~~the blind~~, *persons who are*
10 ~~blind or visually impaired~~ and at least two of them shall be ~~blind~~
11 ~~persons~~ *persons who are blind or visually impaired* who use guide
12 dogs.

13 (b) This section shall remain in effect only until January 1, 2018,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2018, deletes or extends that date.
16 Notwithstanding any other law, the repeal of this section renders
17 the board subject to review by the appropriate policy committees
18 of the Legislature.

19 *SEC. 6. Section 7200.5 of the Business and Professions Code*
20 *is amended to read:*

21 7200.5. The board shall have exclusive authority in this state
22 to issue licenses for the instruction of ~~blind persons~~ *persons who*
23 ~~are blind or visually impaired~~ in the use of guide dogs and for the
24 training of guide dogs for use by ~~blind persons~~, *persons who are*
25 ~~blind or visually impaired~~. It shall also have exclusive authority
26 in this state to issue licenses to operate schools for the training of
27 guide dogs ~~for the blind~~, and the instruction of ~~blind persons~~
28 ~~persons who are blind or visually impaired~~ in the use of guide
29 dogs.

30 *SEC. 7. Section 7200.7 of the Business and Professions Code*
31 *is amended to read:*

32 7200.7. A fee equal to no more than 0.005 of all school
33 expenses incurred in the most recently concluded school ~~calendar~~
34 *fiscal* year, as specified in the audit required under Section 7217,
35 shall be paid no later than April 30 of each year for renewal of a
36 school's license pursuant to Section 7200.5. The board shall, by
37 regulation, define the exact amount of the fee. All fees collected
38 pursuant to this section shall be deposited into the Guide Dogs for
39 the Blind Fund, which is hereby created.

1 *SEC. 8. Section 7201 of the Business and Professions Code is*
2 *amended to read:*

3 7201. No person shall be eligible to membership in the board
4 who is a stockholder in, or an owner of, or financially interested
5 directly or indirectly, in any company, organization, or concern
6 supplying, delivering, or furnishing any guide dogs for use by ~~the~~
7 ~~blind persons who are blind or visually impaired.~~

8 *SEC. 9. Section 7202 of the Business and Professions Code is*
9 *amended to read:*

10 7202. Each of the appointed members of the board shall hold
11 office for a term of four years and until his successor is appointed
12 and qualified or until one year shall have elapsed since the
13 expiration of the term for which he was appointed, whichever first
14 occurs. No person shall serve as an appointed member of the board
15 for more than two consecutive terms, ~~but this provision shall not~~
16 ~~apply to any member in office at the time this provision takes~~
17 ~~effect. terms.~~

18 *SEC. 10. Section 7208 of the Business and Professions Code*
19 *is amended to read:*

20 7208. Pursuant to the provisions of the Administrative
21 Procedure Act the board may make such rules and regulations as
22 are reasonably necessary to:

23 (a) Govern the procedure of the board.
24 (b) Govern the admission of applicants for examination for
25 license to instruct ~~blind persons~~ *persons who are blind or visually*
26 ~~impaired~~ *impaired* in the use of guide dogs or to engage in the business of
27 training, selling, hiring, or being in the business of supplying guide
28 dogs for ~~the blind. persons who are blind or visually impaired.~~

29 (c) Govern the operation of schools which furnish guide dogs
30 and train ~~blind persons~~ *persons who are blind or visually impaired*
31 to use guide dogs.

32 (d) The reissuance of licenses.

33 (e) The reexamination of licensees.

34 *SEC. 11. Section 7209 of the Business and Professions Code*
35 *is amended to read:*

36 7209. A person to be eligible for examination as an instructor
37 must ~~(1)~~ (a) have a knowledge of the special problems of ~~the blind~~
38 ~~persons who are blind or visually impaired~~ and how to teach them,
39 ~~(2)~~ (b) be able to demonstrate by actual blindfold test under traffic
40 conditions his ability to train guide dogs with whom a ~~blind person~~

1 *persons who are blind or visually impaired* would be safe, ~~(3)~~
2 (c) be suited temperamentally and otherwise to instruct ~~blind~~
3 ~~persons~~ *persons who are blind or visually impaired* in the use of
4 guide dogs, and ~~(4)~~ (d) have had at least three years' actual
5 experience, comprising such number of hours as the board may
6 require, as an instructor, and have handled ~~twenty-two (22)~~
7 ~~man-dog~~ *22 person-dog* units; or its equivalent, as determined by
8 the board, as an apprentice under a licensed instructor or under an
9 instructor in a school satisfactory to the board.

10 SEC. 12. Section 7209.5 of the Business and Professions Code
11 is amended to read:

12 7209.5. Except as the context otherwise requires, as used in
13 this chapter the term "instructor" means a person who instructs
14 ~~blind persons~~ *persons who are blind or visually impaired* in the
15 use of guide dogs or who engages in the business of training,
16 selling, hiring, or supplying guide dogs for ~~the blind~~. *persons who*
17 *are blind or visually impaired.*

18 SEC. 13. Section 7210.5 of the Business and Professions Code
19 is amended to read:

20 7210.5. It is unlawful to solicit funds for any person purporting
21 to provide guide dogs for ~~the blind~~ *persons who are blind or*
22 *visually impaired* in this state unless the person for whose benefit
23 the solicitation is made holds a valid and unimpaired license issued
24 by the State Board of Guide Dogs for the Blind.

25 As used in this section "person" means an individual, firm,
26 partnership, association, corporation, limited liability company,
27 or cooperative association.

28 SEC. 14. Section 7211.1 of the Business and Professions Code
29 is amended to read:

30 7211.1. (a) As a condition of renewal of an instructor's license,
31 the instructor shall provide proof of completion of not less than 8
32 hours of continuing education. The board shall determine the form
33 of proof.

34 (b) Continuing education shall meet the criteria specified in
35 Section 166, and shall be in one or more of the following subject
36 matter areas:

37 (1) Blindness and mobility.

38 (2) Health issues relating to blindness.

39 (3) Instructing ~~blind persons~~. *persons who are blind or visually*
40 *impaired.*

1 (4) Care and training of dogs.

2 ~~(e) This section shall apply to renewal of instructors' licenses~~
3 ~~which expire on or after June 30, 1996.~~

4 *SEC. 15. Section 7211.2 of the Business and Professions Code*
5 *is amended to read:*

6 7211.2. A plea or verdict of guilty or a conviction following a
7 plea of nolo contendere is deemed to be a conviction within the
8 meaning of this article. The board may order the license suspended
9 or revoked, or may decline to issue a license, when the time for
10 appeal has elapsed, or the judgment of conviction has been affirmed
11 on appeal or when an order granting probation is made suspending
12 the imposition of sentence, irrespective of a subsequent order under
13 the provisions of Section 1203.4 of the Penal Code allowing such
14 person to withdraw his *or her* plea of guilty and to enter a plea of
15 not guilty, or setting aside the verdict of guilty, or dismissing the
16 accusation, information or indictment.

17 *SEC. 16. Section 7215 of the Business and Professions Code*
18 *is amended to read:*

19 7215. No person shall sell, give, or furnish any guide dog to a
20 ~~blind person~~ *person who is blind or visually impaired* unless the
21 following requirements have been met:

22 (a) The dog has been immunized against distemper and rabies.

23 (b) The dog has been spayed or neutered.

24 (c) The dog has been examined by a licensed veterinarian and
25 found to be in good health.

26 A certificate from a veterinarian certifying to the foregoing shall
27 be delivered to the recipient of the dog at the time the dog is
28 assigned to a client.

29 *SEC. 17. Section 7215.5 of the Business and Professions Code*
30 *is amended to read:*

31 7215.5. During the first year following the successful training
32 of each person-dog unit, and release from a guide dog training
33 school of the trained person supplied with a guide dog, the school
34 may retain title to the trained dog. During this probationary year,
35 the school may enter into a contractual agreement with the user of
36 the dog describing the conditions under which the user may
37 maintain the status of legal custodian of the dog. During the
38 probationary year, the school, acting in what it deems to be the
39 best interest of the user, the dog, or the public, may temporarily
40 or permanently resume possession of the dog.

1 Within 15 days after the end of each ~~calendar~~ *fiscal* year, each
2 licensed school shall report to the board the following:

3 (1) The number of dog ownership titles transferred to dog users
4 pursuant to this section during the calendar year.

5 (2) The number of title recoveries and repossessions made by
6 the school pursuant to this section during the calendar year.

7 (3) The number, type, and amount of charges assessed for
8 followup training, instruction, veterinary, or boarding services,
9 pursuant to this section, which make a distinction between users
10 who have acquired title to their dogs and users who have not
11 acquired title.

12 (4) The views of the governing entity of the school as to any
13 problems or concerns relative to compliance with the provisions
14 of this section, along with recommendations for appropriate
15 legislative or administrative changes commensurate with the
16 purposes of this section.

17 Immediately upon completion of the first year following the
18 successful training referred to above, if the training school and the
19 dog user are mutually satisfied with the operation of the person-dog
20 unit, title to the dog shall be transferred to the ~~blind~~ user *who is*
21 *blind or visually impaired* if the user so desires. Transfer of title
22 shall be evidenced by a transfer of title agreement executed by
23 both parties thereto. The school may retain an option to recover
24 title and possession to the guide dog subject to conditions described
25 in the transfer of title agreement. These conditions may include,
26 but are not limited to, the following:

27 (1) If in the school's opinion, the guide dog is being misused
28 or neglected or mistreated by its ~~blind user~~ *user who is blind or*
29 *visually impaired*.

30 (2) If the ~~blind person~~ user to whom the dog was furnished has
31 ceased to use the dog as a guide and the dog is not too old to be
32 retrained as a guide for another ~~blind person~~ *person who is blind*
33 *or visually impaired*.

34 (3) If, in the school's opinion, the dog is no longer a safe guide
35 and the user refuses to cease using the dog as a guide after being
36 requested by the school to cease this use.

37 The guide dog school shall make no distinction as to the quality
38 or extent of followup or supportive services available to its blind
39 graduates based on whether they elect to acquire title to their dogs
40 or allow title to remain with the school after the probationary year.

1 The school may, however, make this distinction when assessing
2 reasonable and appropriate charges for followup training,
3 instruction, veterinary, or boarding services.

4 No applicant for admission to a guide dog training school, nor
5 any enrolled student, shall be required by the school prior to
6 completion of his or her training to sign any instrument or to
7 announce his or her intention regarding transfer of title of the dog
8 from the school to himself or herself upon completion of the
9 training and probation period.

10 *SEC. 18. Section 7217 of the Business and Professions Code*
11 *is amended to read:*

12 7217. (a) Within 60 days after ~~the end of a calendar year or~~
13 ~~after~~ the termination of the fiscal year of a school, there shall be
14 furnished to the board the following:

15 (1) A list of students accepted for training and those who have
16 completed training.

17 (2) A list of the number of dogs trained.

18 (b) Within 90 days after the end of a ~~calendar~~ *fiscal* year, there
19 shall be furnished to the board an independent audit of the school's
20 finances by a certified public accountant licensed by this state.

21 *SEC. 19. Section 7685 of the Business and Professions Code*
22 *is amended to read:*

23 7685. (a) (1) Every funeral director shall provide to any
24 person, upon beginning discussion of prices or of the funeral goods
25 and services offered, a written or printed list containing, but not
26 necessarily limited to, the price for professional services offered,
27 which may include the funeral director's services, the preparation
28 of the body, the use of facilities, and the use of automotive
29 equipment. All services included in this price or prices shall be
30 enumerated. The funeral director shall also provide a statement on
31 that list that gives the price range for all caskets offered for sale.

32 (2) The list shall also include a statement indicating that the
33 survivor of the deceased who is handling the funeral arrangements,
34 or the responsible party, is entitled to receive, prior to the drafting
35 of any contract, a copy of any preneed agreement that has been
36 signed and paid for, in full or in part, by or on behalf of the
37 deceased, and that is in the possession of the funeral establishment.

38 (3) The funeral director shall also provide a written statement
39 or list that, at a minimum, specifically identifies a particular casket
40 or caskets by price and by thickness of metal, or type of wood, or

1 other construction, interior and color, in addition to other casket
2 identification requirements under Part 453 of Title 16 of the Code
3 of Federal Regulations and any subsequent version of this
4 regulation, when a request for specific information on a casket or
5 caskets is made in person by any individual. Prices of caskets and
6 other identifying features such as thickness of metal, or type of
7 wood, or other construction, interior and color, in addition to other
8 casket identification requirements required to be given over the
9 telephone by Part 453 of Title 16 of the Code of Federal
10 Regulations and any subsequent version of this regulation, shall
11 be provided over the telephone, if requested.

12 (b) (1) Each licensed funeral establishment that maintains an
13 Internet Web site shall post on its Internet Web site the list of
14 funeral goods and services that are required to be included in the
15 establishment's general price list, pursuant to federal rule, and a
16 statement that the general price list is available upon request.

17 (2) Information posted pursuant to paragraph (1) shall be
18 provided by a link from the ~~home page~~ *homepage* of the Internet
19 ~~Web site~~ *site with a word or combination of words, including, but*
20 *not limited to, "goods," "merchandise," "products," or*
21 *"services."*

22 (3) An establishment that posts on its Internet Web site home
23 page the words "price information" or a similar phrase that includes
24 the word "price," with a link that leads to the establishment's
25 general price list, need not comply with paragraphs (1) or (2).

26 (4) Nothing in this subdivision shall be construed to affect an
27 establishment's obligations under federal or state law effective
28 prior to January 1, 2013.

29 (5) This subdivision shall become operative on January 1, 2013.
30 ~~SEC. 5.~~

31 *SEC. 20.* Section 8508 of the Business and Professions Code
32 is amended to read:

33 8508. "Household" means any structure and its contents that
34 are used for persons and their convenience.

35 ~~SEC. 6.~~

36 *SEC. 21.* Section 8513 of the Business and Professions Code
37 is amended to read:

38 8513. (a) The board shall prescribe a form entitled "Notice to
39 Owner" that shall describe, in nontechnical language and in a clear
40 and coherent manner using words with common and everyday

1 meaning, the pertinent provisions of this state's mechanics lien
2 laws and the rights and responsibilities of an owner of property
3 and a registered pest control company thereunder. Each company
4 registered under this chapter, prior to entering into a contract with
5 an owner for work for which a company registration is required,
6 shall give a copy of this "Notice to Owner" to the owner, his or
7 her agent, or the payer.

8 (b) No company that is required to be registered under this
9 chapter shall require or request a waiver of lien rights from any
10 subcontractor, employee, or supplier.

11 (c) Each company registered under this chapter that acts as a
12 subcontractor for another company registered under this chapter
13 shall, within 20 days of commencement of any work for which a
14 company registration is required, give the preliminary notice in
15 accordance with Chapter 2 (commencing with Section 8200) of
16 Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his
17 or her agent, or the payer.

18 (d) Each company registered under this chapter that acts as a
19 prime contractor for work for which a company registration is
20 required shall, prior to accepting payment for the work, furnish to
21 the owner, his or her agent, or the payer a full and unconditional
22 release from any claim of mechanics lien by any subcontractor
23 entitled to enforce a mechanics lien pursuant to Section 8410 of
24 the Civil Code.

25 (e) Each company registered under this chapter that subcontracts
26 to another company registered under this chapter work for which
27 a company registration is required shall furnish to the subcontractor
28 the name of the owner, his or her agent, or the payer.

29 (f) A violation of the provisions of this section is a ground for
30 disciplinary action.

31 ~~SEC. 7.~~

32 *SEC. 22.* Section 8516.5 of the Business and Professions Code
33 is repealed.

34 ~~SEC. 8.~~

35 *SEC. 23.* Section 8552 of the Business and Professions Code
36 is amended to read:

37 8552. It is unlawful for any person to advertise or represent in
38 any manner that any pest control work, in whole or in part, has
39 been done upon any structure, unless the work has been performed

by a registered company, except as otherwise provided in this chapter.

~~SEC. 9.~~

SEC. 24. Section 8611 of the Business and Professions Code is amended to read:

8611. (a) Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative in the branch or branches of business being conducted and his or her license shall be prominently displayed in the branch office.

(b) If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

~~SEC. 10.~~

SEC. 25. Section 17913 of the Business and Professions Code is amended to read:

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as

* _____

at ** _____:

*** _____

This business is conducted by **** _____

The registrant commenced to transact business under the fictitious business name or names listed above on

***** _____

I declare that all information in this statement is true and correct. (A registrant who declares as true any material matter pursuant to Section 17913 of the

Business and Professions Code that the registrant knows to be false is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000).)

Registrant signature _____

Statement filed with the County Clerk of _____ County on _____

NOTICE—IN ACCORDANCE WITH SUBDIVISION (a) OF SECTION 17920, A FICTITIOUS NAME STATEMENT GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH IN THE STATEMENT PURSUANT TO SECTION 17913 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THE EXPIRATION.

THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14411 ET SEQ., BUSINESS AND PROFESSIONS CODE).

(b) The fictitious business name statement shall contain the following information set forth in the manner indicated in the form provided by subdivision (a):

(1) Where the asterisk (*) appears in the form, insert the fictitious business name or names. Only those businesses operated at the same address and under the same ownership may be listed on one fictitious business name statement.

(2) Where the two asterisks (**) appear in the form: If the registrant has a place of business in this state, insert the street address, and county, of his or her principal place of business in this state. If the registrant has no place of business in this state, insert the street address, and county, of his or her principal place of business outside this state.

(3) Where the three asterisks (***) appear in the form: If the registrant is an individual, insert his or her full name and residence

1 address. If the registrants are a married couple, insert the full name
2 and residence address of both parties to the marriage. If the
3 registrant is a general partnership, copartnership, joint venture, or
4 limited liability partnership, insert the full name and residence
5 address of each general partner. If the registrant is a limited
6 partnership, insert the full name and residence address of each
7 general partner. If the registrant is a limited liability company,
8 insert the name and address of the limited liability company, as
9 set out in its articles of organization on file with the California
10 Secretary of State, and the state of organization. If the registrant
11 is a trust, insert the full name and residence address of each trustee.
12 If the registrant is a corporation, insert the name and address of
13 the corporation, as set out in its articles of incorporation on file
14 with the California Secretary of State, and the state of
15 incorporation. If the registrants are state or local registered
16 domestic partners, insert the full name and residence address of
17 each domestic partner. If the registrant is an unincorporated
18 association other than a partnership, insert the name of each person
19 who is interested in the business of the association and whose
20 liability with respect to the association is substantially the same
21 as that of a general partner.

22 (4) Where the four asterisks (****) appear in the form, insert
23 whichever of the following best describes the nature of the
24 business: (i) “an individual,” (ii) “a general partnership,” (iii) “a
25 limited partnership,” (iv) “a limited liability company,” (v) “an
26 unincorporated association other than a partnership,” (vi) “a
27 corporation,” (vii) “a trust,” (viii) “copartners,” (ix) “a married
28 couple,” (x) “joint venture,” (xi) “state or local registered domestic
29 partners,” or (xii) “a limited liability partnership.”

30 (5) Where the five asterisks (*****) appear in the form, insert
31 the date on which the registrant first commenced to transact
32 business under the fictitious business name or names listed, if
33 already transacting business under that name or names. If the
34 registrant has not yet commenced to transact business under the
35 fictitious business name or names listed, insert the statement, “Not
36 applicable.”

37 (c) The registrant shall declare that all of the information in the
38 fictitious business statement is true and correct. A registrant who
39 declares as true any material matter pursuant to this section that

1 the registrant knows to be false is guilty of a misdemeanor
2 punishable by a fine not to exceed one thousand dollars (\$1,000).

3 (d) (1) At the time of filing of the fictitious business name
4 statement, the registrant filing on behalf of the registrant shall
5 present personal identification in the form of a California driver's
6 license or other government identification acceptable to the county
7 clerk to adequately determine the identity of the registrant filing
8 on behalf of the registrant as provided in subdivision (e) and the
9 county clerk may require the registrant to complete and sign an
10 affidavit of identity.

11 (2) In the case of a registrant utilizing an agent for submission
12 of the registrant's fictitious business name statement for filing, at
13 the time of filing of the fictitious business name statement, the
14 agent filing on behalf of the registrant shall present personal
15 identification in the form of a California driver's license or other
16 government identification acceptable to the county clerk to
17 adequately determine the identity of the agent filing on behalf of
18 the registrant as provided in subdivision (e). The county clerk may
19 also require the agent to submit a notarized statement signed by
20 the registrant declaring the registrant has authorized the agent to
21 submit the filing on behalf of the registrant.

22 (e) If the registrant is a corporation, a limited liability company,
23 a limited partnership, or a limited liability partnership, the county
24 clerk may require documentary evidence issued by the California
25 Secretary of State and deemed acceptable by the county clerk,
26 indicating the current existence and good standing of that business
27 entity to be attached to a completed and notarized affidavit of
28 identity, for purposes of subdivision (d).

29 (f) The county clerk may require a registrant that mails a
30 fictitious business name statement to a county clerk's office for
31 filing to submit a completed and notarized affidavit of identity. A
32 registrant that is a corporation, limited liability company, limited
33 partnership, or limited liability partnership, if required by the
34 county clerk to submit an affidavit of identity, shall also submit
35 documentary evidence issued by the California Secretary of State
36 indicating the current existence and good standing of that business
37 entity.

38 (g) A county clerk that chooses to establish procedures pursuant
39 to this section shall prescribe the form of affidavit of identity for
40 filing by a registrant in that county.

1 ~~SEC. 11.~~

2 *SEC. 26.* Section 13995.40 of the Government Code is
3 amended to read:

4 13995.40. (a) Upon approval of the initial referendum, the
5 office shall establish a nonprofit mutual benefit corporation named
6 the California Travel and Tourism Commission. The commission
7 shall be under the direction of a board of commissioners, which
8 shall function as the board of directors for purposes of the
9 Nonprofit Corporation Law.

10 (b) The board of commissioners shall consist of 37
11 commissioners comprising the following:

12 (1) The director, who shall serve as chairperson.

13 (2) (A) Twelve members, who are professionally active in the
14 tourism industry, and whose primary business, trade, or profession
15 is directly related to the tourism industry, shall be appointed by
16 the Governor. Each appointed commissioner shall represent only
17 one of the 12 tourism regions designated by the office, and the
18 appointed commissioners shall be selected so as to represent, to
19 the greatest extent possible, the diverse elements of the tourism
20 industry. Appointed commissioners are not limited to individuals
21 who are employed by or represent assessed businesses.

22 (B) If an appointed commissioner ceases to be professionally
23 active in the tourism industry or his or her primary business, trade,
24 or profession ceases to be directly related to the tourism industry,
25 he or she shall automatically cease to be an appointed
26 commissioner 90 days following the date on which he or she ceases
27 to meet both of the eligibility criteria specified in subparagraph
28 (A), unless the commissioner becomes eligible again within that
29 90-day period.

30 (3) Twenty-four elected commissioners, including at least one
31 representative of a travel agency or tour operator that is an assessed
32 business.

33 (c) The commission established pursuant to Section 15364.52
34 shall be inoperative so long as the commission established pursuant
35 to this section is in existence.

36 (d) Elected commissioners shall be elected by industry category
37 in a referendum. Regardless of the number of ballots received for
38 a referendum, the nominee for each commissioner slot with the
39 most weighted votes from assessed businesses within that industry
40 category shall be elected commissioner. In the event that an elected

1 commissioner resigns, dies, or is removed from office during his
2 or her term, the commission shall appoint a replacement from the
3 same industry category that the commissioner in question
4 represented, and that commissioner shall fill the remaining term
5 of the commissioner in question. The number of commissioners
6 elected from each industry category shall be determined by the
7 weighted percentage of assessments from that category.

8 (e) The director may remove any elected commissioner
9 following a hearing at which the commissioner is found guilty of
10 abuse of office or moral turpitude.

11 (f) (1) The term of each elected commissioner shall commence
12 July 1 of the year next following his or her election, and shall
13 expire on June 30 of the fourth year following his or her election.
14 If an elected commissioner ceases to be employed by or with an
15 assessed business in the category and segment which he or she
16 was representing, his or her term as an elected commissioner shall
17 automatically terminate 90 days following the date on which he
18 or she ceases to be so employed, unless, within that 90-day period,
19 the commissioner again is employed by or with an assessed
20 business in the same category and segment.

21 (2) Terms of elected commissioners that would otherwise expire
22 effective December 31 of the year during which legislation adding
23 this subdivision is enacted shall automatically be extended until
24 June 30 of the following year.

25 (g) With the exception of the director, no commissioner shall
26 serve for more than two consecutive terms. For purposes of this
27 subdivision, the phrase “two consecutive terms” shall not include
28 partial terms.

29 (h) Except for the original commissioners, all commissioners
30 shall serve four-year terms. One-half of the commissioners
31 originally appointed or elected shall serve a two-year term, while
32 the remainder shall serve a four-year term. Every two years
33 thereafter, one-half of the commissioners shall be appointed or
34 elected by referendum.

35 (i) The selection committee shall determine the initial slate of
36 candidates for elected commissioners. Thereafter the
37 commissioners, by adopted resolution, shall nominate a slate of
38 candidates, and shall include any additional candidates complying
39 with the procedure described in Section 13995.62.

1 (j) The commissioners shall elect a vice chairperson from the
2 elected commissioners.

3 (k) The commission may lease space from the office.

4 (l) The commission and the office shall be the official state
5 representatives of California tourism.

6 (m) (1) All commission meetings shall be held in California.

7 (2) Commissioners may participate in meetings by means of
8 conference telephone and other technology, as authorized pursuant
9 to paragraph (6) of subdivision (a) of Section 7211 of the
10 Corporations Code.

11 (n) No person shall receive compensation for serving as a
12 commissioner, but each commissioner shall receive reimbursement
13 for reasonable expenses incurred while on authorized commission
14 business.

15 (o) Assessed businesses shall vote only for commissioners
16 representing their industry category.

17 (p) Commissioners shall comply with the requirements of the
18 Political Reform Act of 1974 (Title 9 (commencing with Section
19 81000)). The Legislature finds and declares that commissioners
20 appointed or elected on the basis of membership in a particular
21 tourism segment are appointed or elected to represent and serve
22 the economic interests of those tourism segments and that the
23 economic interests of these members are the same as those of the
24 public generally.

25 (q) Commission meetings shall be subject to the requirements
26 of the Bagley-Keene Open Meeting Act (Article 9 (commencing
27 with Section 11120) of Chapter 1 of Part 1).

28 (r) The executive director of the commission shall serve as
29 secretary to the commission, a nonvoting position, and shall keep
30 the minutes and records of all commission meetings.

31 ~~SEC. 12.~~

32 *SEC. 27.* No reimbursement is required by this act pursuant
33 to Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O